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A

SHORT SKETCH
OF THE
REVOLUTION
IN
1688;

WITH OBSERVATIONS ON THAT EVENT.

By LÆLIUS.

THE SECOND EDITION.
MUCH ENLARGED AND ILLUSTRATED.

*Iustum, et tenacem propositi virum,
Non civium ardor præcepit jumentum,
Non vultus instantis tyranni,
Mente quærit solida.*

HOR.

Printed in the Year 1793.



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ADVERTISEMENT,

TO THE FIRST EDITION.

THE annexed pages were designed for insertion, as a letter, in a provincial newspaper much circulated throughout the neighbourhood of the writer. But being found too long for such a purpose, and not admitting, in their original form, of any proper abridgment, the design was entirely relinquished.—Accidentally, however, a written copy of them fell into the hands of several gentlemen of high political respectability, who, approving of the matter they contain, strenuously advised their publication in another mode.

It was totally in consequence of this, that the author has consented to alter, in some degree, the original form they possessed, and to add his little assistance to the present stock of political information. To this he is the more induced from a personal knowledge of many who have publicly signed their names, of late, to the most exaggerated encomiums of the REVOLUTION in 1688; and who, in their respective spheres of life, are far superior to the indiscriminating multitude, the avidum genus auricularum, whose information is the mere result of general, and popular report; without being acquainted, in any tolerable degree, with the occurrences of that eventful period.

The praises of the REVOLUTION have, indeed, at all times, been obtruded on our ears: we have

imbibed a reverence for it from our earliest moments of infantine simplicity; and the censure of it has almost been conceived to be blasphemy. But the reign of prejudice is decaying: an undaunted spirit of enquiry, that contemns the shackles of education, imitation, and habitude, is advancing with rapid strides among the nations: and, however natural such an ill-founded approbation might have been forty years ago, it is by no means suitable at the present period.

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The first edition of this little Pamphlet, though not ushered into the world with the usual formalities of public advertisements, passed off entirely in the course of a few days; and the demand for another impression was loud, and incessant.

As some apology for having delayed this new edition so long, therefore, the author begs leave to remark that it contains more than half of fresh matter, every page from the twenty-sixth being entirely new, and many antecedent to it; and that the avocations of an active profession prevented its completion before.

MARCH 20th. 1793.

The progress of the REVOLUTION has been
described



A

SHORT SKETCH, &c.

AS we are accustomed, at the present period, to hear so much concerning the REVOLUTION in 1688, and the Constitution that was then established, it may not be improper to devote some portion of our time to a consideration of the events that absolutely occurred at that æra; that, if they appear of real, and solid importance, we may have a fuller consciousness of the propriety of the terms "*memorable, glorious, and immortal,*" which it is now the fashion continually to apply to it; or if, on the contrary, they do not appear of any high moment, or estimation, we may recal the too flattering epithets we have hitherto bestowed upon it.

Upon the abdication of JAMES II. there being at that time no Parliament existing, it is universally known that, in consequence of letters addressed by the Prince of Orange to the Peers and Commons of Great Britain, a general Convention of Representatives assembled. The first resolution this Convention adopted was to prepare a bill, or declaration of rights, (similar, as is therein specified, *to what had frequently been done before*) which was immediately presented to the Prince and Princess, at that time

time sitting in state at the Banqueting-house; who, upon accepting it, had instantly an offer made to them of the crown, in the name of the Peers and Commons of the kingdom. This offer was likewise accepted; and the Convention was almost immediately converted into a Parliament.

This first outline of affairs has certainly a very promising aspect; but, in order to decide with accuracy upon the real beauty of the Constitution, which, it is said, was at that time established, and the great advantages the nation has gained by the change, it will be necessary to enquire, not only what were the rights at that time demanded by the people, in the declaration of its Convention, but by what means those rights were to be secured in future.

Whoever minutely examines the table of rights, as they were then claimed, and acceded to, however proper he may acknowledge such a table to be, must at the same time be conscious, if he have at all studied the history of this country, that it contains very little, if any thing, but what had frequently been demanded before, and nearly as often granted; a concession that is made in the preamble of the declaration itself.—The King indeed, who, for some years anterior, had been represented by a few bigoted ecclesiastics, as deriving his authority solely from heaven, his title *jure-divino*, was hereby compelled to recognize that title and authority, as entirely derived from the people; and that by their free voice and consent he sat upon the throne. But this is a doctrine which had been determined long before, and that repeatedly, and at all times,
in

in favour of the same party. It was so, not to mention many other express instances, by the compact of King John, when he acceded to Magna Charta; it was so on the deposition of Richard II. and more particularly in the sixteenth year of the reign of Charles I. when, to appease the murmurs of the people, and the inflexibility of Parliament, he consented to relinquish a great part of what, for a series of years, he had imagined his undoubted prerogative. Indeed there is but little difference between the compact entered into with the reigning monarch at this time, and that which was afterwards carried into effect at the Revolution. Like the Convention at that period, the Parliament at this, obtained the abolition of the star-chamber, and high commission court, and the repeal of the tax for ship-money, and all levies made without the consent of itself. The Marshal's and Stannary Court, with the councils of the NORTH and of WALES, were, at this period, likewise abolished as illegal and oppressive; and to prove to the King, and the world at large, the sense it had of his dependence upon his people, the duties of tonnage and poundage were granted for periods of time not exceeding two months. And as to the duration of Parliament, which in the Bill of Rights it is merely observed, *ought to be held frequently**, the King at this time

* "And that for the redress of all grievances, and for the amending, strengthening, and preserving of the laws, Parliaments ought to be held frequently."—Vide Declaration of Rights.

Is it not in some degree singular, that after such an article mutually agreed upon, the Convention Parliament that proposed it should itself sit six years before it was dissolved? A triennial bill was indeed introduced into Parliament before this time; but it was negatived by the express desire of the Court. Such was the influence of regal authority in the very infancy of the Constitution, and such the regard it was forced to pay to its late compact.

found himself necessitated to assent to a regular triennial act. But in reality there was nothing very remarkable introduced at the period of the Revolution, in favour of the people, more than had frequently been attained before†; and by no means so much as they enjoy even at the present moment; particularly since Mr. FOX's Libel Bill has been assented to, and that infamous doctrine of the Law Courts, *de quæstione legis non respondent juratores*, has been resigned and exploded; an event big with the most happy promises to the future liberty of the press, and which only requires an alteration in the mode of nominating *special juries*, to render it complete. For though, in cases of private dispute, there may be no impropriety in referring this nomination to the *Crown-office*, yet when the supposed libel is directed against the State, when Government itself becomes a party concerned, the impropriety is most gross and conspicuous.

But whatever were the rights demanded by the people at the REVOLUTION, it is obvious that demand, though acceded to, could be of no real avail unless those rights were properly secured in future. This was the error into which the nation had fallen in former reigns. It had contented itself with the mere grant, the momentary redress of grievances, without taking any effective caution to circumscribe that power, from the cruel talons of

† Constitutional writers have understood the Stat. 4 E. III. c. 14, 36, E. III. c. 10, construed with reference to the *usage* of those times, to amount to statutes for annual Parliaments; as they required a Parliament to be *bolden* yearly; and in those days, after the session, Parliament was not continued by prorogation, but writs for a *new* one issued.

which

which it was then but barely liberated. For this security there were but two things necessary to be attended to at the REVOLUTION, and as we are so much accustomed to extol the wisdom that was then discovered, let us examine whether this attention was absolutely paid. The first was, to diminish in some effective manner, by deeds and not by words, the exorbitant prerogative of the Crown; and the second, to select, from the great body of the people, a definite number of Representatives equally chosen, and beyond the possibility of ministerial influence.—That the first was not attended to, is obvious; for the powers possessed by WILLIAM, though in some few respects *ostensibly* different, were, *in reality*, altogether the same as had been possessed by JAMES: there was a change of families, but not a change of prerogative; and it was owing to the different dispositions of the house of STUART, and that of ORANGE, rather than to any thing else, that the nation was so much happier under the latter than under the former. “The new Monarch retained,” says SMOLLET, (an historian who cannot be supposed to have possessed any undue bias on the popular side, who was expressly engaged by the Court, and paid most exorbitantly for his writings) “the new Monarch retained the old regal power over Parliaments in its full extent. He was left at liberty to convoke, adjourn, prorogue, and dissolve them at his pleasure. He was enabled to influence elections, and oppress corporations. He possessed the right of choosing his own council; of nominating all the great officers of state, of the household, the army, the navy, and the church. He reserved
 B “ the

“ the absolute command of the militia; so that
 “ he remained master of all the instruments, and
 “ engines of corruption, and violence, without any
 “ other restraint than his own moderation, and
 “ prudent regard to the claim of rights, and prin-
 “ ciples of resistance, on which the Revolution was
 “ founded. The King, who was made by the peo-
 “ ple, had it in his power to rule without them; to
 “ govern *jure divino*, though he was created *jure*
 “ *humano*; and, though the change proceeded from
 “ a republican spirit, the settlement was built upon
 “ Tory maxims.”

“ Let not the establishment at the REVOLU-
 “ TION,” says Mr. HUME, “ deceive us. It
 “ was only the succession, and that only in the
 “ regal part of the government, which was then
 “ changed. And it was only the majority of seven
 “ hundred who determined that change for near
 “ ten millions. I doubt not indeed, but the bulk
 “ of those ten millions acquiesced willingly in the
 “ determination, but was the matter left, in the
 “ least to their choice? Was it not justly supposed
 “ to be, from that moment decided, and every
 “ man punished, who refused to submit to the new
 “ Sovereign? ” †

Nor did the wisdom of this convention of the
 people appear more conspicuous in the parlia-
 mentary system it adopted, whereby it might be
 rendered equal, and independent, than in the active

† Essays Vol. I. Of the Original Contract.

measures it pursued to retrench the powers of the throne. Never did a fairer opportunity present itself for this purpose than at the REVOLUTION: never were the representatives of a nation more called upon by duty to engage in this arduous undertaking, than those at that time assembled. But they transacted nothing worthy of notice. With the most culpable indifference they permitted the golden moment to glide by unimproved, expended it in a mere puerile, and verbal disputations, and future generations have to suffer through their negligence. In reality, the system adopted at that time was the system which had been in use before, and which is in use still; a system, if system it may be called, which has been reprobated by every party for a century, as a system of inequality and dependence; which has never yet been rectified, and which, perhaps, has it not in its power to rectify itself. The Convention at that time sitting had been elected, according to the mode of prior Parliaments, by letters addressed by the Prince of ORANGE, as stated in the Declaration of Rights, "to the Lords " Spiritual and Temporal, being Protestants, and " other letters to the several counties, cities, universities, boroughs, and cinque-ports, for the " chusing of such persons to represent them as were " of right to be sent to Parliament*," that is according to antient usage; and this Convention, *thus*

§ Concerning the terms "abdicated," "deserted," and "vacant." on the choice of which, as to propriety, they were a long time incapable of deciding. An indecision which was properly commented upon, and ridiculed by the Parliament of SCOTLAND.

* Vide Preamble to the Declaration of Rights.

assembled, was, immediately after, converted into a Parliament, and became a model for every succeeding election.

The reformations in parliamentary representation, which are so needful now, were, therefore, equally needful then; and we cannot be surprised that bribery, corruption, ministerial influence, and every deleterious consequence which ensues at present, should have occurred at that time. Mankind are the same in all ages; equally the slaves of ambition, equally exposed to the fascinations of splendour and riches. In effect, it is not, perhaps, possible to single out any one epoch, in the whole History of GREAT BRITAIN, when these fatal consequences were more generally and more alarmingly felt than through the first four years succeeding the REVOLUTION. The King himself was astonished at the immense sums of money that were squandered away by his Ministers to secure a majority in both houses, and could not avoid testifying his regret. But the answer was, according to BURNET, that it had always been the *custom* to act thus; and the King, who, by a new coronation oath, framed for the occasion, had just before sworn to govern "according to the statutes in Parliament agreed on, and the laws and *customs* of the same," accepted of the reply, and for the future was silent. But the example of Parliament had a most pernicious influence on the nation at large, and especially on the lower orders of the people; and it was not till after proclamation had been issued on proclamation, nearly as frequently as at the present day, and associations had been formed throughout the whole

whole kingdom, expressly for this purpose, that the torrent of vice, immorality, and prophaneness, was in any degree abated.

In reality the little that was done, at the period of the REVOLUTION, has been often a matter of surprise to many who have been most disposed to step forward in its entire approbation. Excuses have been sought after for an explanation of this mystery: and it has been contended that the doctrine of statistics was but then in its infancy; and that political government, and the unalienable rights of the people were but little defined, and comprehended. But this is to justify the convention by a strange impeachment of its understanding. It is to argue for pretexts that can never be acceded to. The constitution established so long before in HOLLAND, on the ruins of the despotism, and oppression of SPAIN; the dreadful controversies, and desolations that had so long divided this wretched country during the reigns of the STUARTS; the abilities of a BEDFORD, a HALLIFAX, a HAMBDEN, a SOMERS, and a HOWARD, at this very period existing; and the works of a BACON, a TEMPLE, a GROTIUS, a MILTON, and a LOCKE, which were, at this moment, in the hands of every one; must be incontestible proofs that the inactivity displayed at the REVOLUTION, could not proceed from a want of proper sources of information, or an ignorance of the science of government. The rights of the people had been often trampled upon, and as often asserted with intrepidity. It was in a school of long and severe discipline they had been taught what were their

theirunalienable immunities; and how needful were the bonds that were to guard those immunities from infringement. The resources of the AMERICANS for political counsel, when they seceded from GREAT BRITAIN, were scarcely more extensive; and their motives to a perseverance were even fewer, and less calamitous. But the wisdom exhibited to preserve the freedom of the people, and to provide for the necessary exigencies of the state by the first AMERICAN congress, and the convention parliament at the REVOLUTION, will bear no comparison whatsoever.

Such is a true sketch of the transactions in the REVOLUTION of 1688; and who is there but must perceive, at a single glance, the impropriety of that veneration which is continually paid to it? The fact is, that we are evermore disposed to applaud the days in which we did not exist, than those in which we do, and to enlist too readily into the number of the *laudatores temporis acti*. At the time of the REVOLUTION the golden days of ELIZABETH comprized the period of full perfection; and, at the present period, it is the time of the REVOLUTION.

But there is another reason to be alleged, and which certainly ought not to be forgotten. Nothing with which we are acquainted is either great, or small, luminous, or obscure but by comparison. To an ENGLISHMAN who has never adventured beyond his native island, the majestic mountains of SCOTLAND, or WALES, must appear inexpressibly stupendous, and sublime; but to him who
has

has travelled through SWITZERLAND, or SAVOY, who has witnessed the mighty glaciers that rise immeasurably towards the heavens; and beheld the magnificent, and picturesque scenery which is every where displayed, through those romantic countries: the loftiest mountains of GREAT BRITAIN must, to such a traveller, appear simple, and diminutive. It is so in moral life. GREGORY of ROME was surnamed "the GREAT" from the mere possession of negative merit. JOHN of NAVARRE was entitled "the Good" because he stood in succession to a number of execrable princes; and did not exhibit all the vices the nation had been accustomed to deplore in his predecessors. In the character of HENRY of TRASTAMARRE there was no peculiar prominence of active virtue at the moment he ascended the throne of CASTILLE. But compared with PEDRO the Cruel, the tyrant who had immediately preceded him, his negative qualities draw forth our applause; and we are not surprized to find him commencing his reign amidst the joyous shouts, and gratitude of his people.

The æra of the REVOLUTION in this country, defective as it was in the benefits it pretended to secure to the people, is infinitely to be preferred to the æra which it immediately succeeded; the character of WILLIAM of ORANGE to that of the STUARTS his predecessors. And, whatever dissatisfaction the nation may have discovered in many instances, it was too well convinced of the general advantage it had hereby obtained, not to express, in a comparison, the most cordial gratitude, and veneration: a gratitude, and veneration, which,

which, in all their extreme, have blindly descended to ourselves. The Constitution of 1688 is, in reality, the Constitution of 1793: little has been attempted to render it better, and not much to render it worse. It was imperfect in its establishment at first, and is highly imperfect still; and speculative men will therefore, in spite of all the efforts of Government to the contrary, boldly publish their opinions concerning its improvement; nor will such opinions be published in vain. If Government will not adopt any of them, the people will; and what the people are once resolutely determined to adopt, it is not in the art of the most politic Minister, it is not in the power of the most absolute Monarch, to prevent. The UNITED WILL of the people is alone sufficient: and nothing can resist their ALMIGHTY FIAT.*

Not

* There is a passage so truly spirited in the writings of the celebrated J. J. ROUSSEAU, respecting the real ability of the people, and the comparative insignificance of the reigning power, at particular periods, even though that power be despotic, that I cannot avoid translating it; convinced that, though it should not meet with the approbation of the generality of *modern* associators, and declarators, amidst their present fame, and inanimate productions, their echoes of insipid sentiments that have a hundred times been echoed before, the society of "Friends to the Constitution" in IRELAND; the society, in every kingdom, that dares to think for itself, and to feel its own importance, must applaud the spirit it develops, while they contend for the truth of its assertions.

"Thy liberty, thy power, O man, extends only to the possession of thy natural strength, and cannot pass beyond it. Every thing else is mere slavery, illusion, deceit. Even thy dominion itself is dependent, since it is only supported by opinion; for thou thyself art upheld by the prejudices of those, whom by prejudice alone thou governest. To conduct them agreeably to thy will, it is necessary to conduct thyself agreeably to theirs. They have but to change their present manner of thinking, and thou art instantly compelled to change thy manner of acting. Those who approach thee have but to govern the sentiments of the people, whom thou believest to be governed by thyself, and thy vizirs, thy courtiers, thy priests, thy soldiers, thy valets, to the very children

Not that there is any alarming degree of discontent, or general dissatisfaction, existing throughout the country at present; but it is impossible to predict what may happen. It is not the province of a wise minister, however, to terrify the nation unnecessarily: and posterity will smile at beholding the BRITISH Parliament assembled in the year 1792, under an act which supposes actual invasion, or at least imminent danger thereof, or the case of rebellion or insurrection,* and hearing its Members enquiring of each other where those insurrections, or rebellions were to be found? while one declared they existed in one place, and another in a second, and all were equally deceived.

That there have been, indeed, some unhappy tumults of late, is an incontrovertible fact: but they

“ children of the state, though thou shouldst be a THEMISTOCLES
 “ in capacity, will instantly lead thee, as a child, in the midst of all thy
 “ legions. My people are my subjects, thou exclaimest with indignation.
 “ Be it so. But then, who art thou, that thus exclaimest? The subject
 “ of thy ministers. And thy ministers, in their turn, who are they?
 “ The subjects of their clerks, of their mistresses; the valets of their va-
 “ lets. Take then all, usurp all, and lavish every treasure with full
 “ hands; elevate batteries of cannon; erect gibbets and wheels; pro-
 “ mulge laws and edicts; multiply spies, and soldiers, and executioners,
 “ and prisons, and chains. Poor, contemptible mortals! of what use
 “ can be all such preparations? Ye will neither be better obeyed, nor
 “ less deceived, nor more absolute. Ye will ever say *we will it*, and ye
 “ will ever be obliged to submit to *the will of others*.”

O homme, ta liberté, ton pouvoir ne s'étendent qu'aussi loin que tes forces naturelles, et pas au-delà. Tout le reste n'est qu'esclavage, illusion, prestige. La domination, même, est servile, quand elle tient à l'opinion; car tu depends des préjugés de ceux que tu gouvernes par les préjugés. Pour les conduire comme il te plaît, il faut te conduire comme il leur plaît, &c.

Maximes diverses. Chap de l'Inégalité.

* These are the very words of the act of the 26th Geo. III. c. 107, f. 95, which seem clearly to shew that it must either be such danger of invasion, as can be proved by specific facts, as of hostile armaments, for that ascertained object, or a rebellion or insurrection actually existing.

have always been, as at BIRMINGHAM, MANCHESTER, MOUNT-STREET, and CAMBRIDGE, by parties who have professed themselves peculiarly attached to Government, and the Constitution; they have always arisen from some loyal motive: and, during the most violent of them, which occurred at the first of the above-mentioned places, it was not thought necessary to convene a Parliament at all.

Something of this kind, moreover, is continually manifesting itself at the signature of almost every association, and declaration of loyalty that is made throughout the country. This, however, is to be considered, I suppose, as a mere ebullition of joy in the parties who are met together for this purpose. But, surely, there are happier modes of proving ourselves *sober* and *steady* friends of Government, than by *getting drunk* over the tune of "God save the King," or of declaring ourselves *peaceable* subjects, than by engaging in every *riot and excess*. Declarations, accompanied with such extravagant testimonies of zeal, can only excite contempt in the sober part of mankind. And every lawyer must be fully persuaded that clubs and societies, thus mutually entered into, for the purpose of oppressing individuals who think differently from themselves, and chuse to publish that difference of opinion, are totally illegal and invalid, contrary to the true spirit of the Constitution, and whose purposes could not be admitted of in any court of judicature in the kingdom.

How much more generous is it, if associations
must

must be the fashion, and every one actively engage in political disputes; how much more generous is it to associate, like the societies in DUBLIN, and DURHAM, for the unequivocal benefit of our country, and the purity, and reformation of its constitution: or, like "Friends to the freedom of the Press" at the Crown and Anchor, in London, for the liberty of thought, and the extension of free enquiry. How much more generous is it instead of stringing together long lists of trite maxims, and inquisitorial resolutions, to adopt such language as this; "We assemble to object to the popular prosecution of those *public* offences which the Crown, if they exist, is bound in duty, to prosecute by the Attorney General; where no individual can count upon a personal injury; and where the personal interest of the subject is only as a member of that public, which is committed to the care of the executive authority of the country. For the press, as it is to be affected by associations of individuals to fetter its general freedom, *wholly unconnected with any attack upon private character*, is a very different consideration; for if the nation is to be combined to suppress writings, without further describing what those writings are, than by the general denomination—*seditions*; and if the exertions of these combinations are not even to be confined to suppress and punish the circulation of books, *already condemned by the judgments of Courts*, but are to extend to whatever does not happen to fall in with their private judgments:—if every writing is to be prosecuted which they may not have the sense to understand, or the virtue to practise:—if

“ no man is to write but upon their principles, nor
 “ can read with safety except what they have writ-
 “ ten, lest he should accidentally talk of what he
 “ has read;—no man will venture either to write
 “ or to speak upon the topics of Government or its
 “ Administration—a freedom which has ever been
 “ acknowledged by our greatest statesmen and law-
 “ yers to be the principal safeguard of that consti-
 “ tution, which liberty of thought originally created,
 “ and which a FREE PRESS for its circulation gra-
 “ dually brought to maturity.”—

“ We *will* therefore *maintain* and *assert*, by all
 “ legal means, this sacred and essential privilege;
 “ the parent and guardian of every other. We
 “ *will maintain* and *assert* the right of instructing
 “ our fellow-subjects by every sincere and con-
 “ scientious communication which may promote
 “ the public happiness; and while we render obe-
 “ dience to Government and to Law, we *will* re-
 “ member at the same time, that, as they exist by the
 “ people’s consent, and for the people’s benefit,
 “ they have a right to examine their principles, to
 “ watch over their due execution, and to preserve
 “ the beautiful structure of their constitution, by
 “ pointing out as they arise, those defects and cor-
 “ ruptions which the hand of Time never fails to
 “ spread over the wisest of human institutions.†”—
 Patriots well worthy of the unprostituted name!—
 champions undaunted by every opposition, and re-
 straint! may the most ample success attend you!

† Vide Declaration of the Friends of the Liberty of the Press, &c. at
 the Crown and Anchor Tavern, January 19, 1793.

and

and may the nation that has given us birth, and is entitled to our most filial affection, be adequately benefited by your illustrious exertions!

Great, indeed, would be the advantage resulting from the establishment of such associations throughout the whole kingdom; uniting, and corresponding in one common fraternity. And it is an establishment which, began with such happy auspices, will most probably, immediately take place. Such an institution must be highly laudable, at all times; but, at the present moment, peculiarly seasonable, and expedient. It must be the most effectual means to repress that infatuated, and unconstitutional spirit, which has, unaccountably, sprung up amongst us, and of taking the burden off from the shoulders of individuals too easily overthrown, amidst all their rectitude of conduct, by the enormous strength of counteracting multitudes. It would be entering on the contest in the same field, not, indeed, by returning oppression for oppression, but by resisting that oppression in its infant efforts; by opposing host to host, and society to society.

The liberty of the press has been of such immense advantage, and must ever continue so, to every science that can contribute to the knowledge, and felicity of mankind, that the man who attempts to infringe on that inviolability it ought, at all times, to possess, proves himself, by such an action, inimical to the best interests of his fellow species. Such a union of such societies would have this further advantage, moreover, of a more speedy, and effectual circulation, of popular and patriotic pamphlets

phlets; without incurring the risk of frivolous and vexatious prosecutions against the publishers of them.

Instead of attempting to silence by combination and coercion, how much more manly would it be, as well as more effectual, to come forward, and oppose fact to fact, and argument to argument. Let the battle be fought on the same field; let the same weapons be wielded; and the victor may then, with an honest rapture of heart, exult in the triumph he has gained. "The book of an individual," says an elegant, and popular writer of the present day, "has little, or no weight, but what it derives from argument: and argument, if fallacious, may be refuted; or if mischievous, may be counter-acted by better arguments in a better cause*."

But of all the steps that can possibly be taken to subvert the sentiments of a party, or an individual in this country, persecution must be the worst, because the most ineffectual, and at the same time supported with the greatest trouble and expence. The moment of a man's oppression, for any peculiarity of sentiment, is the moment of his popularity; and how much soever those sentiments may have attracted the public attention before, they will now become an object of ten times more curiosity and investigation. Thousands who, from real idleness or indifference, would have otherwise remained unacquainted with them for ever, will now be roused from their inglorious torpor; and if a perusal

* Dr. Parr's Sequel to a printed Paper, &c.

of them do not frequently terminate in conviction, they must be sentiments or principles of which Government had never any reason to be afraid: and in whose opposition it has uselessly exerted itself.

I beg the limitation here advanced may be attended to; "that persecution is the most ineffectual step that can be taken to subvert the sentiments of a party, or an individual, *in this country.*" Persecution has, I know, frequently diminished, and at times absolutely destroyed, the belief of particular opinions, or the strength of particular sects and parties. But this has only occurred in situations where the persecution has been most rigorous and severe, and where it has continued for a long duration of time, without any intermission whatsoever. It was by such severity the ardent spirit of Christianity was nearly extinguished in the reigns of **TRAJAN** and **ADRIAN**; it was by such severity the **MOORS** were expelled from **SPAIN**; and the Protestants of **FRANCE** most dreadfully diminished in their numbers. But these are calamities that cannot, at this time, possibly occur in **GREAT BRITAIN**. The liberality of the age, and the consciousness which **EVERY MAN** feels of his own native dignity, constitute a barrier against such evils that can never be surmounted. Let then proof alone be opposed to proof, induction to induction; but let no foreign force be introduced, no undue influence be made use of. Such a conduct, however oppressive in its means, must be altogether nugatory in its issue. Truth will, in the end, triumph over every opposition; and the advice of Gamaliel, which was founded on the discreetest policy

policy in his time, is entitled to equal attention at present:—"Refrain from these men, and let them alone; for if this council or this work be of men it will come to nought; but if it be of God ye cannot overthrow it; lest haply ye be found even to fight against God."

"Drive not away, then, with a frown, even the visionary reformer; pay the tribute of a hearing to the speculative recluse, but *act* not, till your plan of action has received its last and best stamp of merit from the approbation of men, whom practice in public affairs has not made callous to the public weal. Do not give either good men the inclination to subvert tumultuously, or bad men the power to undermine insidiously, what may be safely and advantageously preserved. Do not let loose the multitude to put forth their own enormous and irresistible strength, in vindication both of their own *ideal* and actual rights. Let governors be parties, and indeed leaders, in the improvement of government—let parliamentary wisdom and parliamentary authority be employed in parliamentary reform, not merely for the honour of parliament, but in conformity to the sober judgment and the solid interests of the people, for whom, and by whom, parliament subsists. Sooner or later this must be done, and this being done *well*, few things will remain undone, which ought to be done at all.†"

Whilst

† *Parr's Sequel*, &c.

It is with a peculiar pleasure and pride of heart the author is able to inform the public, that, since the first edition of this little tract, many with whom

Whilst I am upon the subject of the present Declarations, and Clubs of loyalty and attachment to the Constitution, I cannot avoid animadverting upon the strange conduct exhibited by great numbers of the Dissenters, who, if we may judge by the signature of their names, in such declarations, have undergone a total change in their sentiments within the last two or three years; or else are endeavouring, in a very unmanly manner, to impose upon the public.—It is universally known, that about three years since, they were every where forming associations of themselves, in every part of the kingdom; every sect, with scarcely the exception of an individual, united in one common fraternity: and they thus united to testify their disapprobation of several statutes in the Constitution, which were peculiarly oppressive to themselves; and the *Test Act*, in particular, was an object of universal odium among them. For such an odium, indeed, there was abundance of reason.—Religion and politics have no natural connection:—"My kingdom," said our Saviour, "is not of this world;" and every honest citizen, contributing his quantum to the necessities of the state, has an equal right to aspire to its honours and emoluments. The attempts of the Dissenters to free themselves from this opprobrium were, therefore, founded on justice; and the conduct they pursued, though not always accompanied with proper policy and finesse, was open and man-

whom he is personally acquainted, and more of whom he has heard, who had associated with great zeal and alacrity to prosecute the writers of all publications that might be deemed seditious, or, as the cant term is, levelling, have retracted their sentiments on this subject, and wish they could retract the signature they have also given to such declarations; which they now begin to think are, at least, highly incongruous, if not disgraceful to a nation pretending to any degree of political liberty.

ly. Whence then proceeds this sudden reverse of declarations, this strange deviation from the path they had prescribed to themselves? It is in vain to assert that the *Test Act* is no real part of the Constitution of 1688; and that though they approve of the Constitution itself, they most strenuously disapprove of the septennial act, the increase of places and pensions, and other abuses which have insensibly crept among us since that æra. The *Test Act* is, at least, as real a part of the Constitution established at the Revolution as any statute that was then enacted: it was passed fifteen years previous to it, ratified at the time, and deemed a requisite absolutely indispensable; nor could William, with all his generous efforts, obtain more than a *mere toleration*. And to approve of a Constitution, while we disapprove of the evils that inevitably flow from it, is to prevaricate; it is to approve of the cause while we disapprove of the effect. However corrupt the senate may be at the present moment, it has been already observed that it is not more corrupt than it was a century since. Nor is it of any consequence what duration may be allotted to Parliament, whether it be one, three, or seven years, while the means of corruption continue undiminished. The Constitution of 1688 is in effect, with scarcely any exception of real moment, the Constitution of 1793; and for the Dissenters to approve of the former, while they object to the latter, is to object inconclusively, and to contradict themselves; it is to desert that character of inflexible honesty which has, in former times, been their fairest boast: it is to make use of a temporizing adulation which must sink them in their own esteem, and render them suspicious in the eyes of others.

It

It has been much contended, however, since the publication of the first edition of this little tract, that the constitution of this kingdom is, in no respect, composed of statutes enacted in parliament; or that if one statute, of any importance, compose a part of the constitution, so must every one, even the meanest and most local as well. It becomes necessary, therefore, to enquire what is the real meaning of the term CONSTITUTION, as in general use amongst us at present.

And here, I confess, from the different sense in which it has been used by different writers, and partizans, it is a task of no small difficulty to form a definition that may hope for any degree of general acceptance.

"A constitution is the act of the whole people universally assembled by themselves, or their representatives equally and universally chosen."†

*Our glorious constitution, is a constitution consisting of king, lords, and commons.**

The constitution of this kingdom is the constitution of the antient BRITONS, and SAXONS; a constitution, "in which, much as it is impaired by time, there are no dilapidations even now which may not be restored without altering its construction."§

† Paine's Rights of Man.

* Half the Declarations that have lately appeared.

§ Hist. of the Boroughs vol 1. ch. Constitutional Rights p. 45 and 46.

*"It is at the æra of the CONQUEST that we are
to look for the real foundation of the English con-
stitution."*†

Of these four definitions, or explanations of the term Constitution, neither of them, opposite as they are to each other, can be admitted as conveying its complete meaning, in the manner used by different parties at present.

The first, because it cannot be applied to any government at this time existing; excepting, indeed, the AMERICAN; and to confine it in this very narrow compass would be almost to exclude the expression from conversation. Such a definition is, undoubtedly, a just one of a pure popular constitution, but it is not the definition of the word as we generally use it ourselves, or as we are authorised to do from its original and etymological construction.

The second is inadmissible because it is inadequate to the the purpose it aims at: since we are perpetually speaking of UNCONSTITUTIONAL actions, even when we do not mean actions that militate against the existence of king, lords, and commons, or either of these estates seperately.

Of the third and fourth, I beg leave to remark that they cannot, either of them, comprize a definition, or explanation of the constitution of the present period, or even compose that constitution it-

† De Lolme's Constitution of England chap. 1.

self. They were the constitutions of the æras to which they severally refer, but can neither of them be admitted to compose the constitution of GREAT BRITAIN in the eighteenth century. And to contend that they might do so, is to contend that the DRUIDICAL, or the ROMAN CATHOLIC religion, the original established religions of this country, is the real religion of the people at present. Who does not see that the greatest innovations have been made in the latter, and that such an assertion would be grossly inconsistent and contradictory? and why, then, contend for such an assertion in the former instance, in which equal, at least, if not much greater, innovations have frequently occurred?

But not to oppose such a variety of definitions without offering some substitute to replace them, I beg leave to premise the few following positions and remarks, and then to attempt a definition more adequate and general than has been hitherto advanced. And from whence, I trust, it will appear uncontestibly that many statutes, though not all, that have been enacted by the people or their representatives, not only may be allowed to compose a political constitution in part, and especially the constitution of this kingdom, but that, in many instances, they form its chief bases and bulwarks.

A POLITICAL CONSTITUTION, then, can never, with strict derivative propriety, be the act of an individual; it declares itself, by its very name to be the act of a party or plurality†. And

† From *con* and *statu*, to decree together, or together with.

whenever

whenever it is perfect, and pure, it must be the act of the people at large. A kingdom where the supreme ruler is despotic, and governs according to his own arbitrary pleasure, as MOROCCO, or TURKEY, is never said to have a constitution. A government it possesses; but a constitution it can never possess §. "Absolute monarchy," says Mr. LOCKE, "is inconsistent with civil society." The edicts of the emperor ADRIAN, or of HENRY IV. of FRANCE, or the laws of FREDERIC III. of PRUSSIA, which were enacted by those princes themselves, without consulting the nation,

§ DENMARK, perhaps, ought to be an exception to this general rule, as an individual instance, since the surrender of its liberties to the reigning prince by the estates of the nobles, and commons unitedly. The government of this kingdom was, till of late, severely aristocratical, with an elective monarchy. But the clergy, and commons, on extraordinary occasions, were usually summoned, as a third estate, to deliberate by their representatives, on the affairs of the nation. It was on a summons of this kind, about the middle of the last century, that a most violent dispute arose between the two estates of nobles, and commons, in consequence of the haughtiness with which the former conducted themselves towards the latter. It was a haughtiness the commons were determined not to brook. And, to revenge themselves for the insolence they had received, they repaired immediately to the king, and requested him to accept of the crown as hereditary in his own family; to dissolve for ever the deliberative estates; to reduce all his subjects to an equality; and to render the supreme power absolute in his own person. These violent resolutions the nobles, at first, determined to oppose; but finding themselves inadequate to any effective resistance, they were seized with a sudden panic; and pusillanimously consented to bend their necks to the yoke they deserved. Dreadful effect of haughtiness on the one hand, and unbounded passion on the other! which is not to be paralleled, I believe, in the history of the world; and which has been repeatedly, but vainly, repented of since.

It is obvious, however, from this short account, and the whole narration given by Lord MOLESWORTH, that, on the part of the nobles, this change of government was altogether an act of compulsion; and, on the part of the commons, an act perfectly illegal, and morally invalid; having been performed in a moment of fury and madness, by an usurpation of power, which was never delegated to them as representatives, or ever afterwards recognized by their fellow citizens.

† On Government, ch. 7.

or

or any council of the nation, may, with propriety, therefore, possess the terms by which they are generally known; but can never, with any degree of grace or consistency, partake the names of *popular acts*, or *constitutions*: while the decisions of FRANCE, and AMERICA, proposed, and acceded to by the representatives of the whole people, must, in the truest, and most critical sense of the term, possess those distinguished appellations*.

The word CONSTITUTION, however, either in this country, or abroad, is not confined to the mere decrees that are determined upon by the delegated powers of the people; but is frequently used to express those delegated powers themselves. In FRANCE, therefore, the late Constitution was expressly declared to be representative; and the representatives of it the Legislative body, and the King†. And the Constitution of GREAT BRI-

* The laws of the ROMAN Emperors are, many of them, I well know, denominated *constitutions*. But then they are, in general, such only as were decreed for the welfare of the nation at large; and in which the emperor was assisted by a council of civilians. THEODOSIUS, in the arrangement of his celebrated code, employed eight to superintend it with their wisdom and advice; and JUSTINIAN, in the digesting of his pandects, employed the learned TREBONIANUS and sixteen others. There is no emperor or king throughout EUROPE, of whom I have read, who in more modern times has presumed to publish any law, or edict, with the sacred name of constitution, when it has been framed entirely by himself, and solely designed to increase his own aggrandisement, or prerogative. *Apostolical constitutions*, are regulations attributed to the Apostles unitedly: *ecclesiastical constitutions* are the decrees of ecclesiastical councils; the *constitutions of CLAREDON* are a code of laws established by the parliament of that name.

† "La constitution FRANCAISE est representative: les representatives sont le corps legislatif, et le roi."

Vide Report of the Constitutional Act.

TAIN

TAIN is frequently described as consisting of king, lords, and commons.

These observations being premised, the word CONSTITUTION; in its general, and political acceptation among us at present, may be defined

A complex term, compounded of the principles of government, and the system of delegated powers by which it is administered.

If it be enquired what is meant by the "system of delegated powers in a country?" I reply those from whence all others are derived; in AMERICA the congress; in FRANCE, when, of late, it had an accepted constitution, the legislative assembly, and the king; in GREAT BRITAIN the king, the lords, and the commons. If it be asked what is meant by "the principles of government." I adjoin whatsoever act either modifies the exercise of the general political, or civil rights of the people; or changes any thing in the system of the primary delegated powers. And that whether, like the common law of this country, it be a principle traditional, and unwritten, but universally, and immemorially assented to; or whether, like its statute law, it be the decree of the people, or their representatives determined, at different periods of time, by parliamentary discussion, or any other overt act, wherever there be such, of the people or their representatives.

§ "The basis of the ENGLISH constitution is that the legislative power belongs to parliament. The constituent parts of parliament are the king, the house of lords, and the house of commons." De Lolme ch. 4, b. 1.

That

That many principles, and especially in this country, are deemed strictly constitutional which have never been decreed by any overt act of the people at large, or any convention of the people, must, I think, readily be admitted. For there is no overt act, at this time existing, in which the people were generally concerned, that institutes the order of nobility, or even a house of commons. The first exists as the remains of the old feudal system; and the second has its origin so enveloped in darkness as to elude all possible discovery†. Yet no one, who is in the least acquainted with the history of this kingdom, can be ignorant that the people have, for a multitude of centuries, constituted, by their acquiescence, and approbation, both these estates as authorities to govern themselves; and have often looked up to them as the chief bases of their freedom.

But that the constitution of this country is founded upon, and embraces many statutes enacted by the representatives of the people, we have demonstrations infinitely more conspicuous, and incontrovertible. No one ever yet doubted that Magna charta, and still more the charta de Foresta, Trial by jury, Petition of right, Habeas corpus, and Bill of rights, are all most essential ingredients in our

† It will presently appear that there was a species of parliament in use amongst the antient BRITONS and SAXONS; and, perhaps, in common with these, amongst all the antient northern nations. Intimations are likewise given of the meeting of parliaments previous to the reign of HENRY III. when their existence is indisputable. The declaration of rights establishes such a representative body perhaps more fully than any other act existing; but even this only establishes it by a recognition of it as an antient custom, and not by any immediate compact or express determination.

present existing constitution; and that the removal of all, or any of these would be the destruction of its true principles, if not its annihilation altogether. But these are each of them statutes, enacted in parliament, or consented to afterwards and enrolled as statutes by parliament; and that parliament, in every instance, excepting the two first, acknowledged by the people to be their representatives.

It is in vain, then, to contend that no act of parliament composes a part of the constitution; or that if one act be admitted as a component part, the whole must be component parts as well. There are many, of a temporary and local nature that certainly are not; but there are many, as is instanced above, which evidently, and that in a most essential and incontrovertible manner do compose it. And the character of those which must be deemed constitutional has been already defined; it is every one that attempts to modify the general rights of the people; or to change any thing in the system of the primary delegated powers. "The parliament," says Blackstone, "can change, and create afresh, even the constitution of the kingdom, and of parliaments themselves; and it has done so by the act of union, and the several statutes for triennial and septennial elections†."

If then, this definition be admitted, and I think it cannot be refused, what judgment are we to pass respecting the act of uniformity, the corporation or the test act? Decried as they were by the repre-

† Comment. vol 1, Rights of Persons.

sentative's

representatives of the people for the general good and general safety, it is impossible to exclude them from the list of constitutional statutes, whatever we may do from that of equitable, or expedient ones. § The act of settlement, which prohibits the crown from a papist, can have no superior claim to constitutionality, if I may hazard a term which the debates of the day seem to demand. And it must be further observed respecting the *test act*, that, although it was not originally levelled against the different sects of dissenters from the established church when it was first enacted in the reign of JAMES II. but merely against the members of the church of Rome; yet when it was afterwards discussed, and ratified on the accession of WILLIAM and MARY, if there were any difference between dissenters and papists, the former were more immediately the objects against which it was aimed than the latter.

The above definition of the term CONSTITUTION being allowed, it must moreover be obvious that there is no period in the history of this country when it has been settled in a pure, permanent, and equitable manner: and that the expressions of "reverting to its original principles," and

§ "It was an unaccountable mistake in policy, and an error ill agreeing with the prudence of King WILLIAM, in not securing and bringing to justice those traitors, who, by their flagitious counsels, had nearly ruined the country and state: those, I mean, who once disgraced the bench, and from that seat of justice, forgetting the duties they owed their God, their king, and their country, and as little mindful of their own honour, and the public liberty, gave their opinion that the king might dispense with the penal laws, and the test, *those bulwarks of the English franchises.*" Harleian Miscellany, Sir W. Raleigh's Prerogative of Parliaments, &c.

“recovering it from the dilapidations by which it “has been impaired” are problematical, and require an explanation.

The history of this kingdom proves it to have been always mutable and fluctuating, equally subject to the events and the opinions of the day: “a “constitution,” as a celebrated ITALIAN writer has justly observed, “ever changing, ever reforming, but never perfected†.”

Before the period of the NORMAN conquest, it appears to have been much purer, and more popular than we should have expected, or perhaps than it is at present. The antient BRITONS possessed their commune concilium, kyfr-y-then, or popular convention. Many of their political customs were derived from the GERMANS; of whom TACITUS informs us that “on all matters of smaller moment their chiefs alone consulted together, but “the whole nation on affairs of importance.*” This, indeed, was the practice among the smaller republics of GREECE; and, in their uncorrupted infancy, among the inhabitants of ROME. But the exercise of the rights possessed by the antient BRITONS was still greater: they elected and de-throned their different kings throughout the several kingdoms into which the island was divided; and VORTIGERN, when he obtained the sole mo-

† Cav. Filangieri. “Costituzione sempre cangiante, sempre riformante, ma giammai compita.”

* De minoribus rebus principes consultant, de majoribus, omnes. De mor. Germ cap. 11.

narchy of SOUTH BRITAIN, obtained it alone by the general consent of the people. If, indeed, we trace government to its first origin in the woods and deserts, "it is the people alone," as Mr. HUME has justly observed, "who are the source
" of all power, and jurisdiction, and who voluntarily, for the sake of peace and order, have abandoned their native liberty, and received laws
" from their equal and companion. The conditions, upon which they were willing to submit,
" were either expressed, or were so clear, and obvious, that it might be well esteemed superfluous
" to express them.—In vain are we asked in what records this charter of our liberties is registered.
" It was not written on parchment, nor yet on leaves or bark of trees. It preceded the use of
" writing, and all the other civilized arts of life.
" But we trace it plainly in the nature of man, and
" in the equality, or something approaching equality, which we find in all the individuals of that
" species.†"

The

† Essays vol. 1, On the Original contract. The term "something approaching equality" refers to his peculiar sentiments respecting the origin of mankind: whom he divides into two classes, the whites, and the blacks; and supposes that each had, from the beginning, a different derivation.

This idea, which is founded on an imagined difference in mental capacity, and corporeal configuration, has been so frequently, and completely refuted by philosophers embracing the opposite system, that it would be as useless as it is foreign from the present subject, to enter into the dispute in this place. Mr. RAMSAY's "Treatise" may be referred to, or "A Poetical Epistle to the Honourable the Committee of the House of Commons assembled for hearing Evidence on the Slave Trade," containing a variety of physical, and philosophical notes on this point; which is at present in the possession of a member of that respectable body, and will be presented to the public in a short time.

But I ought not to forbear remarking in this place that, even allowing negroes to be a distinct, and inferior *species* of mankind, it could not affect

The same spirit of liberty, and of course the same mode of constitution that is to be traced among the earliest BRITONS, was discoverable during the government of the ANGLO-SAXONS. Those countless folios of statutes and reports which so uselessly encumber our libraries at present, and which, instead of defining more accurately what the legislature intended, only contribute to the doubtfulness and perplexity of the law,[†] were not then existing in the nation. But they too possessed their mickle-gemotes, their popular convocations, and their wittena-gemotes, their assemblies of sages, to assist their kings with their advice, and to determine on facts as they arose. The trial by a jury of twelve peers, that boast of the BRITISH constitution, that high palladium of real liberty had its origin at this period. It was attempted in the reign of ETHELRED, and completely achieved in that of the great ALFRED. ||

By the conquest of WILLIAM of NORMANDY every thing that could possibly refer to the old constitution, or indeed to any constitution

fect their political equality of rights, while all rank under the same *general character*. While, I mean, all are rational beings; capable of understanding the use of language; and of associating together on the principles of common right, and interest. An inferiority in the species, not affecting this general character, could not involve an inequality of right; any more than an inferiority in the *individuals* of any species is allowed to do.

† Juris nodos, legum que ænigmata. HON.

|| This important privilege seems to have been entirely overthrown, amongst many others, by the Norman invasion. And it is not till the reign of Henry II. that we retrace the smallest appearance of it. Vide Hist. of the Boroughs, Constitutional Rights.

at

at all, was completely subverted; and a new species of government, of the most tyrannical and arbitrary tendency, was introduced in its stead. Nor can we discern the smallest embryo of a constitution, or any decree for the welfare, or liberty of the people, obtained by a convocation espousing their rights, till, in the reign of JOHN we, at length, meet with Magna charta, and, in that of HENRY III. with the charta de Foresta. The first glimmering with some feeble advantage for the people, amidst the mass of feudal privileges which it conferred;† and the second glowing with a lustre more promising, and conspicuous.§ In this reign, likewise we meet with the first full proof, upon record, of knights, citizens, and burgeses being summoned to take their seats in Parliament.

But reverting, for a few moments, to the conquest of WILLIAM of NORMANDY, it cannot

† This foundation of the ENGLISH constitution, as it has been dominated, whatever advantages it bestowed on the barons, has but little to do with the liberties of the people at large. And it is not till we wade through the first twenty eight chapters of the statute, that we trace any important privilege advanced on their behalf. Then, indeed, it declares that “no freeman shall be taken, or imprisoned, or dispossessed of his freehold, or liberties, or free customs, or be outlawed, or exiled, or any otherwise destroyed; nor will we pass upon him, nor condemn him but by lawful judgment of his peers, or by the law of the land. We will sell to no man, we will not deny, nor defer to any man either justice or right.” Nullus liber homo capiatur vel imprisonetur, vel disseisetur de libero tenemento suo, vel libertatibus, vel liberis consuetudinibus suis, &c. Magna chart. chap. 29.

§ Previous to the grant of this charter, the monarch claimed the privilege of converting the freehold of any of his subjects into forests at his own pleasure; and of punishing, in the severest manner, often with death itself, such of his subjects as dared to trespass on his forests, or kill his deer. This wholesome statute secured the freeholds of the people to themselves; restrained the exorbitant power of the king's foresters; and mitigated the punishments of those who offended.

but be observable with what repugnance mankind yeild to the loss of whatever degree of political liberty they have been accustomed to enjoy, and submit their necks to the yoke of subjection. The Duke of NORMANDY was himself conscious of this; and, in analogy with the general conduct of other artful tyrants, and usurpers, after having rendered the nation, by one fatal overthrow, completely incapable of opposing him any farther, he chose rather to appeal to the common principles of equity, and justice, in his pursuit after the crown, than to the full power he possessed from the decision of the sword. According to MALMSBURY, therefore, he consented to receive it as the free gift of the people of ENGLAND, whom, by his coronation oath he promised to govern righteously "by the appointment of good laws, and the observation of true justice, and the utter prohibition of all rapine, and false judgments;" and according to another historian,[†] to claim it merely in consequence of a full promise of the late king EDWARD, made, and confirmed in the presence of many of his nobles; and as immediate and hereditary descendant by his mother's side: EDGAR ATHELING, who alone could oppose him in this respect, being too debilitated in his intellects to render him a proper candidate for election.

As year advanced on year, the disputes of the king, and the barons, and their mutual exertions to obtain the interest, and support of the people, secured to them an addition of constitutional rights,

[†] Harleian Miscellany, Hist. of William the Conqueror.

which,

which, it is probable, they would never, otherwise, have enjoyed. And the commons, who were, at first, merely summoned to be witnesses of what was proposed by the other two estates in the government, at length began to act for themselves, and to put on a more manly appearance.

The power of taxing themselves, therefore, a second bulwark of security to the people, was obtained by their parliament in the reign of EDWARD I: a power which was of immense advantage to them; and of which, by withholding supplies, or compounding the grant of them for other stipulations, and privileges, they made a very spirited use, during several of the succeeding reigns.†

During that of EDWARD III, was enacted, as before observed, in this tract, the celebrated statute for sessional parliaments. But the prerogative which had been usurped by EDWARD I. of chartering particular towns with peculiar, and exclusive privileges, and permitting them to delegate representatives for themselves in parliament, a prerogative which continued to be occasionally exercised till the union with SCOTLAND, was a considerable barrier to the progress of popular liberty;* and gave the king an influence among the commons, which he otherwise, would not have possessed.

† This memorable statute is generally known by the title of *De Tallagio non concedendo*. It decreed that no tax or other assistance shall be imposed or levied without the joint consent of both houses of parliament. *Nullum tallagium, vel auxilium per nos vel hæredes nostros, in regno nostro ponatur, seu levetur, sine voluntate et assensu, &c.*

* Even since the reign of HENRY VI. the number of borough representatives are increased by two hundred.

In the mutability of the ENGLISH constitution, however, the aristocratical influence of the barons, which was, hereby, so essentially diminished, obtained, in a short time, its former extent, and moment. For in the reign of HENRY VI. the power of voting was infamously curtailed on the part of the people: first of all by being limited to those only who had estates of forty shillings annual value; and immediately afterwards to those alone who possessed freeholds of that amount.

Under the houses of TUDOR, and STUART, the popular liberty of this kingdom, and, of consequence, its constitution, was extremely fluctuating, and desultory; and upon the whole, it lost much in perfection and equality. The introduction of the star-chamber,§ the high commission,|| and the stannary court; the compulsory demand of loans, benevolences, and ship-money; and the frequent refusals to assemble the representatives of the people in parliament, were violent infringements on their acknowledged rights, and freedom. On the contrary, the repeal of the absurd existing laws against high treason, enacted in the reign of HENRY VIII;† and afterwards of all the above infringements at once,* though only for a short period of time, and a full declaration of their illegality; and the introduction of the triennial,‡ and habeas corpus acts, appear in some small measure to atone for the violences at other times committed, and to restore the constitution to something more of an equilibrium.

§ In the reign of HENRY VIII. || In that of ELIZABETH.

† During the reign of EDWARD VI. • In that of CHARLES I.

‡ In the same reign.

It

It must, however, be observed that no step sufficiently effective was, at any time taken to restrain the crown from the same undue influence in future. The nation in general was content with the simple recognition, and repossession of a privilege when it had been wrested from them; but did not exert itself to prevent those usurpations in future. The prerogative of WILLIAM and MARY, therefore, was, in every essential circumstance, as extensive when they ascended the throne, as that of the STUARTS had been in any period of their reigns; at least they possessed sufficient power to exert themselves as arbitrarily. The rights of the people were more decisively stated, it is true, but the same capability still resided in the crown of subverting those rights; a power which even but a few years since we must recollect having heard of, as a power "that had increased, was increasing, and "which ought to be diminished†."

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There

† What would have been the declaration of Mr. LOCKE, had he lived till this period I know not. But this is the position he laid down a century since respecting such encroachments—that if ever the independence of either of the three branches of the legislature should be lost, or become subservient to the views of either of the other two, there would be an entire dissolution of the bands of government; and the people would have the supreme power to alter the legislative power, having acted contrary to the trust reposed in them: "for when such trust is abused" continues he, "it is thereby forfeited, and devolves to those who gave it."

On Government, part 2.

"As all human things have a termination," says the Baron MONTESQUIEU, "the BRITISH state will lose its liberty; it will perish. ROME, CARTHAGE, and SPARTA have not these perished in former times? It will perish when the legislative power shall be more corrupt than the executive. *L'Esprit des Loix, liv. 11, ch. 6.*

Explicit as these prophecies are, the late Lord CHATHAM proceeded farther, and pointed out the express time when they were to be verified. "He agreed with me" says the Earl of BUCHAN "in remarking that THOMSON, the poet, in the midst of Gothic institutions of feudal origin, had described the platform of a perfect government. And when

There is no act of late years that has given so much promise of effectually restraining such exorbitancies as the act of settlement.* It expressly declares that "no pardon under the great seal of ENGLAND shall be pleadable to an impeachment by the commons in parliament." And to render the members of the privy council personally responsible for their transactions, and advice, it ordains "that all matters and things relating to the well governing of this kingdom, which are properly cognizable in the privy council, by the laws and customs of this realm, shall be transacted there; and, all resolutions taken thereupon, *shall be signed by such of the privy council as shall advise and consent to the same.*" It states in a third article that "no person having any office, or place of profit under the king, or receiving a pension from the crown, shall be capable of serving as a member in the house of commons." If this clause were, now, to be enforced, what dreadful havoc would it make in the BRITISH senate, and how woefully would its numbers be diminished. But, to the misfortune of this country, these last two wholesome provisions for its freedom and prosperity, were repealed a few years afterwards, during the reign of queen ANNE.†

When I asked him, "but, sir, what will become of poor ENGLAND that doats on the imperfections of her pretended constitution?" he replied, "my dear lord, the gout will dispose of me soon enough to prevent me from feeling the consequence of this insatiation. But before the end of this century either the parliament will reform itself from within, or be reformed with a vengeance from without."

Lives of Fletcher and Thomson.

Dreadful predictions from sages who were capable of foreseeing. May the peaceable reformation from within effectually prevent that which is menaced with so much violence from without.

* In the 12th year of WILLIAM and MARY.

† MONTESQUIEU who, as judge BLACKSTONE remarks, gent-

What were the particular events that occurred at the moment of the REVOLUTION have been already an object of attention and remark. Some few advantages have been attained which were not then possessed, and some advantages, were at that time possessed, which we are now, perhaps, to seek for in vain. On the whole, as before observed, the constitution of 1688 is, in effect, with scarcely any exception of real moment, the constitution of 1793: little has been done to render it better, and not much to render it worse. It was imperfect at that time, and continues highly so still.†

Let

rally spoke and wrote with the genuine spirit of freedom, has composed a long chapter in praise of the constitution of ENGLAND. But how mortifying is it to observe him at last, after having thus profused the warmest eulogiums upon it, conclude with this equivocal sentence. "That it is foreign from his purpose to announce whether the ENGLISH actually enjoy the liberty he has thus been describing, or not: and that it is sufficient for him to observe that it is established by their laws, and he enquires no farther." *L'Esprit des Loix*, Liv. 11. chap. 6.

† It may not be amiss, however, to point out a few of the inconsistencies, to call them by no severer term, that have crept in since that æra. Till the union with SCOTLAND the king possessed an unlimited power of chartering boroughs, and permitting them to elect parliamentary representatives for themselves. Of course the number of representatives might, till then, be continually varying and uncertain. But the act of union expressly ascertains the number for both kingdoms which cannot possibly be transgressed, determining for South BRITAIN 513, and for SCOTLAND 45. This number, however, being certain and determinate, to preserve an equal balance between the two estates of parliament, the number of peers should be determinate likewise. But here the prerogative of the crown is left uncontrolled, and the king has a power of creating whatever number he pleases, at his own arbitrary discretion. There is an instance in the reign of queen ANNE of not less than twelve peers having been created at once. And it was in consequence of this, a few years afterwards, a bill was introduced among the lords for limiting the number of the peerage. It actually passed through the house; but the commons anxious for a higher honor than that of representing the nation, and reflecting that they should, hereby, in a great measure exclude themselves from that additional honor, rejected it when it was sent down for their assent.

By 9 Anne, ch. 5. the only qualification for a representative in parliament is £600 per ann. either copy or freehold for every knight of the shire, and £300 per ann. for every other candidate. Every copyholder has, hereby, therefore, a right to propose himself a representative for his coun-

Let us not then blame ministers, or the parliament,

try. But the powers entrusted to a representative must be far superior to those of an elector of such representative, and attended with by far more danger to the country, if there be any danger in either instance. Yet by the 31 Geo. 2. ch. 14. sect. 1. no mere copy-holder to any extent is allowed to give his vote on any account; and very severe penalties are decreed in case of transgression.

The only prerequisites for the office of legislation being, as above stated, £600 per ann. in the one instance, and £300 per ann. in the other, no test is required, independent of the declaration of protestantism, as an induction into the legislative office, or as a prudent circumspection over it; yet in every, even the meanest, executive office, a test the most rigid is exacted, and a penalty the most severe inculcated in case of disobedience. I contend not for the introduction of a test in the former instance, but only remark the incongruity of the continuance of such in the latter.

Such are some of the inconsistencies that attend the system of parliamentary representation in ENGLAND; and which, to the universal ear of mankind, so loudly call for a reform. But grossly defective, and inadequate as this is to the purpose it aims at, it is a system altogether praiseworthy, and perfect when compared with the mode of election in SCOTLAND.

In this part of the island, during the earlier period of the reign of JAMES VI. every freeholder was admitted to vote, however small the value of his property. But a statute was afterwards enacted, in the same reign, that deprived all freeholders of the privilege of voting, whose possessions did not amount to forty shillings annually, of *old extent*. With this unjust exclusion the system of election continued for a considerable period of time. But, in the reign of GEORGE II, the curtailment, already great, was made still greater. For at this time an act was passed, and which still continues to operate, prohibiting the admission of every proof of this old extent, excepting a *retour*, or verdict of a jury, or inquest given prior to the year 1681. This *retour*, or evidence, however, it had never been customary to record till 1633. And the generality of *retours* previous to that time, not enjoying this public deposit, had accidentally been lost or destroyed.

According to the present practice of election, then, those only who possess the property, and superiority, or even the superiority alone in property, wadset, or life-rent lands, valued at £400 Scots; and those few who can produce *retours* previous to the year 1681, of forty shillings lands, are entitled to give their suffrages.

"A life-rent voter is created by the transfer of the life-rent of a bare superiority, producing some trifling feu-duty. At the death of the voter the right reverts to the granter. He then, transfers it to some other person, and thus keeps up a continual succession of dependent voters; whereof he can create as many as he has 40 shillings lands, or valuations of £400 Scots upon his estate. — A wad-set voter is a person who has paid to the proprietor of a superiority a certain sum, however small, for the interest of which he receives the yearly feu-duties.

"Such are the men who return the members for our counties; whilst the proprietors of several thousands a year may not possess a single vote upon their estate."

Ferguson's Reform of Representation in Scotland.

